

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1762 OF 2006

Pradeep Kumar Mewalal Jaiswal
 Mewalal Ramkishan Jaiswal
 Dilip Kumar Mewalal Jaiswal
 Mrs.Simla Dilip Kumar Jaiswal .. Applicants

Versus

State of Maharashtra .. Respondent

Mr.Diwakar Dwivedi i/b. Jayprakash Gupta for
 applicants
 Mr.P.G.Lad for respondent No.2
 Mr.M.H.Mhatre, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 23rd August 2006

P.C.

. Heard learned Advocate for applicants,
 A.P.P. for State and Mr.Lad appearing for

original complainant.

2. Applicants are apprehending arrest in C.R.No.353 of 2005 registered with Bandra Police Station, Mumbai under section 498A, 504 and 506 read with section 34 of I.P.C.

3. First applicant is the husband, second applicant is father in law and applicant Nos. 3 and 4 are brother and sister in law of the complainant wife.

4. Learned Additional Sessions Judge has rejected the application of the applicants but at the same time granted anticipatory bail to applicant Nos. 5 and 6. In the opinion of the learned Judge was that there is prima facie case made out as far as other applicants are concerned.

5. This application has been pending in this

court for nearly a year and more. Every time a statement was made that parties are trying to settle the matter amicably. However, several proposals were made which are not acceptable now to either the applicants or the complainant wife. In such circumstances, I have proceeded to hear the parties.

6. Upon perusal of the relevant material, it is clear that the first applicant - husband has been charged with ill-treatment and harassment including physical assault. Applicant Nos. 2 to 4 have been charged with ill-treatment for the alleged demands of dowry. In my view, considering the fact that one of them is a lady and the father in law is a senior citizen so also the brother in law having firm roots in the society and willing to cooperate with the investigation, ad-interim order directing that applicant Nos. 2 to 4 shall not be arrested would continue to enure for their benefit till

the charge sheet is filed. However, as far as first applicant is concerned, it appears that no investigation has been done. He being husband, his case for anticipatory bail cannot be considered in the light of the allegations made against him. Hence, following order would service ends of justice.

(1) Applicant Nos. 2 to 4 in the event of their arrest in connection with C.R.No.353 of 2005 registered with Bandra Police Station shall be released on bail in the sum of Rs.5000/- each with one or two sureties in the like amount.

(2) Applicant No.1 would be entitled to apply for bail before the regular court and rejection of the present application shall not constitute a bar in either so moving or for the trial court in considering the same and passing

appropriate orders in accordance with law.

(3) At this stage, learned Advocate appearing for applicant prays for time insofar as surrendering of applicant No.1 to the I.O. In his submission, applicant No.1 is in Mumbai so also all other applicants and because of some illness in the family, time may be granted to first applicant to surrender. At his request time to surrender to first applicant is granted till 29th August 2006. Applicant No.1 shall surrender to I.O. on or before 29th August 2006. In the meanwhile, applicant Nos. 1 to 4 shall attend concerned police station as and when summoned. On surrender of applicant No.1, applicant Nos. 2 to 4 shall attend concerned police station once a week on every Saturday between 11.00 a.m. and

1.00 p.m.

(3) In addition to the above order, applicants shall abide by following directions:-

i) The bail is granted subject to condition that the applicant Nos. 2 to 4 to attend the Bandra police station on every Saturday between 11.00 a.m. and 1.00 p.m. till the charge sheet is filed.

ii) Bail is granted subject to condition that the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade them from disclosing such facts to the

Court or to the police officer/ investigating agency. The applicants shall not tamper with the prosecution evidence.

iii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial

iv) This order will enure to the benefit of the applicants only till charge sheet is filed. Thereafter, they will be free to apply to the appropriate court for appropriate relief.

(v) Application is disposed of in above terms.

(vi) The parties to act upon an

authenticated copy of this order.

(S.C.DHARMADHIKARI, J)